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BEFORE THE PUBLIC SERVICE COMMISSION

MAY 20 2004

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

BALLARD RURAL TELEPHONE
COOPERATIVE CORPORATION, INC.

PSC CASE NO. 2004-00036

v.

JACKSON PURCHASE ENERGY CORPORATION

JACKSON PURCHASE ENERGY CORPORATION'S RESPONSE TO THE
FIRST DATA REQUEST OF COMMISSION STAFF

1. Refer to Answer 11 in the Testimony of Richard Sherrill (Sherrill Testimony").

Mr. Sherrill states that the 1954 agreement between Jackson Purchase and Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Telephone") was a joint-use agreement which "contemplated that each utility would own a fair and reasonably equivalent percentage of the shared poles." Later in his testimony, Mr. Sherrill states that Jackson Purchase owns 3,288 shared poles and Ballard Telephone owns 170 shared poles. Explain whether Jackson Purchase believes that each utility now owns a fair and reasonably equivalent percentage of the shared poles. Also provide a schedule showing the number of poles owned by each company for the past 25 years.

RESPONSE: JPEC does not believe that each utility now owns a fair and reasonably equivalent percentage of the shared poles. While the 1954 Agreement does not state "goal" percentages for each utilities ownership, it is fairly well accepted in the industry that respective ownership should be such that the actual dollars exchanged each year be as close to

zero as possible. See Exhibit "A" attached for a pole ownership schedule from 1983 to the present. No records existed for the full twenty five year span requested.

2. Refer to Answer 19 in the Sherrill Testimony, which discusses Jackson Purchase's attempt to negotiate a settlement with Ballard Telephone.

a. The third sentence in the answer reads, "They indicated at that time that they would accept an immediate increase to \$8.00 per pole and annual stepped increase over 4 years to the rate being paid by BellSouth [BellSouth Telecommunications, Inc.]." The fifth sentence reads "BRTC was adamant that they would not accept the escalation clause being proposed by JPEC."

(1) Provide clarification of whether "they" in the third sentence refers to Ballard Telephone and whether the "annual stepped increase" in that sentence has the same meaning as the "escalation clause" to which Mr. Sherrill refers in the fifth sentence.

RESPONSE: The word "they" in the third sentence refers to Ballard Telephone. The term "annual stepped increase" does not mean the same as the term "escalation clause". The latter refers to an escalation clause based on the Timber Price Index that was contained in the contract document originally proposed by JPEC in 2002 to replace the 1954 document.

(2) Provide the "rate being paid by BellSouth" under its joint-use arrangement with Jackson Purchase, the number of joint-use poles owned by Jackson Purchase, and the number of joint-use poles owned by BellSouth.

RESPONSE: The rate paid by Bell South for jointly used poles at the end of 2003 was \$15.10 for jointly owned poles owned by JPEC while JPEC paid by Bell South was \$19.08 for poles owned by them. At the end of 2003, Bell South occupied 4,038 poles owned by JPEC, and JPEC occupied 451 poles owned by Bell South.

b. The next-to-last sentence in the answer states, In August 2003, JPEC accepted BRTC's offer, prepared a revised contract document and, on August 18, 2003, forwarded appropriate documents to BRTC." Provide a description of the offer from Ballard Telephone that was accepted by Jackson Purchase.

RESPONSE: The "offer" that JPEC believes it accepted was verbally conveyed by BRTC in the April, 2003 meeting between the parties and specifically provided an immediate increase to \$8.00 per pole with incremental increases over the next four years to the rate being paid at that time by Bell South. BRTC further requested some language changes to the proposed contract document which were subsequently agreed to by JPEC.

3. Refer to Answers 22 and 23 in the Sherrill Testimony. Provide all cost justification for the rates that Jackson Purchase proposed to charge Ballard Telephone, along with a narrative description thereof.

RESPONSE: See Exhibit "B" attached.

4. Provide a calculation of CATV Pole Attachment Rates using Jackson Purchase's 2003 Annual Report as calculated in the current tariff.

RESPONSE: See Exhibit "B" attached.

5. Provide a legible copy of the proposed joint-use contract between Jackson Purchase and Ballard Telephone as appended in Exhibit 6 of the complaint.

RESPONSE: See Exhibit "C" attached.

6. Has either Jackson Purchase or Ballard Telephone begun removing any pole attachments from the other's poles?

RESPONSE: JPEC has not removed any attachments from BRTC poles and to our knowledge, they have not removed any of theirs.

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By Walter R. Luttrull, III
W. David Denton
Walter R. Luttrull, III

I hereby certify that 10 copies
of the foregoing were filed with the
Public Service Commission by
mailing via Federal Express to:

MR. THOMAS DORMAN EXEC. DIR.
PUBLIC SERVICE COMMISSION
215 SOWER BLVD
P O BOX 615
FRANKFORT KY 40601

AND via facsimile transmission to:
Mr. Thomas Dorman, Executive Director,
Commission @ 502-564-3460

True and correct copies of the
foregoing have been mailed to:

HON ANITA MITCHELL ATTY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
P O BOX 615
FRANKFORT KY 40602

on this 19th day of May, 2004.

Walter R. Luttrull, III
Walter R. Luttrull, III

CC: Kelly Nuckols

AND via facsimile transmission to:

HON JOHN E. SELEN
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EXHIBIT A

Year	JPEC Billing	JPEC Owned Poles	BRTC Owned Poles	
1983		176	1412	44
1984		176	1412	44
1985		176	1412	44
1986		176	1412	44
1987		176	1411	44
1988		180	1411	45
1989		180	1411	45
1990		180	1420	45
1991		180	1431	45
1992		184	1431	46
1993		184	1434	46
1994		184	1429	46
1995		184	1429	46
1996		184	1464	46
1997		184	1486	46
1998		184	1547	46
1999		184	1547	46
2000		184	1547	46
2001		188	1573	47
* 2002		680	3294	170
2003		680	3292	170
** 2004			3288	170

* The large jump from 2001 to 2002 resulted from a field count conducted in early 2002. The difference resulted primarily from the inclusion of lift and meter poles into the count. For reasons unknown to current JPEC personnel, these had been omitted from previous billings, although there is no contractual basis to do so. BRTC did not contest this change.

** 2004 Billing has not been submitted as yet.

COST JUSTIFICATION
FOR
JOINT USE RATE
PROPOSED
FOR
BALLARD RURAL TELEPHONE COOPERATIVE

JPEC believes that joint users should pay an annual charge based on the capital cost of one-half of the weighted installed cost of the first 25' of a typical JPEC pole. This belief centers on the fact that, were it not for the JPEC pole, the joint user would have to install at least a 25' pole to carry its facilities. By joint using with JPEC it avoids that cost.

The raw capital costs from JPEC books is adjusted downward by a factor of 0.95 to reflect that JPEC accounting methods may book items other than the pole itself into the pole accounts. It is further adjusted to include the cost of the pole ground, found on virtually all JPEC poles, and which the joint user is required to attach to.

The formula for calculating the annual costs is:

$$\text{Annual Cost} = \text{CC} * ((0.95 * \text{PC}) + (0.5 * \text{GC}))$$

Where CC = Annual system carrying charge as a % of Total Plant value

PC = Weighted average installed cost attributable to joint user

GC = Installed cost of pole ground which is accounted for separately in JPEC books.

As of the end of 2003, CC = 14.96%, PC = \$97.57 and GC = \$33.24. This results in an Annual Cost to the joint user of \$ 16.36.

The original rate requested by JPEC in October 2002 was \$13.79. *(RTS Comment: The Contract document proposed in 2002 stated the rate to be \$ 13.79 for 35' and shorter poles and \$ 17.75 for 40' and taller poles. However, as we did not at that time know how many of each size pole, we agreed to charge only to lesser amount until better pole information is available. These numbers came from Bell South's offer to pay rather than from any calculation.)* JPEC later agreed (or offered depending on how you look at it) to accept \$8.00 per pole in 2004, increasing the amount each year to arrive at \$15.50 in 2007. JPEC has withdrawn all previous offers and now requests the \$ 16.36 stated above.

CALCULATION OF JOINT USER PORTION OF POLE COST

A	B	C	D (C/B)	E (D/A)	F (E*12.5)	G (F*B)
Pole Length	JPEC Total Quantity	JPEC Book Value	Unit Cost	Cost per Foot	1/2 of First 25'	Capital Cost Joint User
25	8,040	914,352	113.73	4.55	56.86	457,176
30	15,604	4,186,335	268.29	8.94	111.79	1,744,306
35	13,982	2,402,756	171.85	4.91	61.37	858,127
40	16,538	6,765,739	409.10	10.23	127.84	2,114,293
45	3,971	1,647,556	414.90	9.22	115.25	457,655
50	677	418,009	617.44	12.35	154.36	104,502
55	136	68,955	507.02	9.22	115.23	15,672
Totals	58,948	16,403,703				5,751,731

Weighted Cost of Average JPEC pole --> 278.27

Weighted Cost of Joint User Portion --> 97.57

PSC #4

Development of Annual Carrying Charge

1	Operation and Maintenance Expense (Line 53, Page 14)	\$3,727,393	Line 53, Page 14 of 2003 Annual Report
2	Customer Accounts Expense (Line 8, Page 15)	\$1,075,956	Line 8, Page 15 of 2003 Annual Report
3	Customer Expense and Informational Expense (Line 14, Page 15)	\$214,035	Line 14, Page 15 of 2003 Annual Report
4	Administrative and General Expenses (Line 34, Page 15)	\$1,514,814	Line 34, Page 15 of 2003 Annual Report
5	Depreciation Expense (Line 28, Page 13)	\$2,968,444	Line 28, Page 13 of 2003 Annual Report
6	Taxes Other than Income Taxes (Line 30, Page 13)	\$43,335	Line 30, Page 13 of 2003 Annual Report
7	Sub Total	\$9,543,977	
8	Original Utility Plant at End of Year	\$92,183,357	
9	Rate of Return from Last General Rate Increase (Case No. 97-224, Item No. 77, AG Initial RFI)	0.0461	

0.1496 [A]

Quantity	Plant Value	Weighted Average
Total 35' Poles in Plant	\$2,402,756	
Total 40' Poles in Plant	\$6,765,739	
Totals	\$9,168,495	\$300.41 [B]

\$5.84 per Calendar year

Total 40' Poles in Plant	\$6,765,739
Total 45' Poles in Plant	\$1,647,556
Totals	\$8,413,295

\$410.22 [C]

\$4.80 per Calendar year

Note 1: JPEC pole accounts includes very minor non pole material constituting 5% or less of total account value. No grounding material is included in this account. Therefore a multiplier of .95 is used to adjust pole account values and \$12.50 is added to cover the pole grounding system.

EXHIBIT C

JOINT USE AGREEMENT

THIS AGREEMENT, made as of the _____ day of _____, _____, by and between Jackson Purchase Energy Corporation, a Kentucky corporation, hereinafter referred to as JPEC and Ballard Rural Telephone Corporation, a Kentucky corporation, hereinafter referred to as BRTC.

WITNESSETH:

WHEREAS, in the areas in the Commonwealth of Kentucky served by both parties certain utility poles are presently used jointly by JPEC and BRTC, and

WHEREAS, the parties desire to continue such joint use and to use other poles jointly in the future, when and where such joint use will be of mutual advantage in meeting their respective service requirements; and

WHEREAS, because of changed conditions and experience gained, and to facilitate administration of joint use, the parties desire enter into a Joint Use Agreement giving due recognition to the fact that the comparative numbers of joint use poles owned by the parties, the respective space allocated to or used by the parties, the concern for the ability to provide reliable service, the relative positions of the parties on the poles all have a bearing on the contribution to be made by the parties both as to ownership and maintenance of joint use poles.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto for themselves, their successors and assigns do hereby covenant and agree as follows

ARTICLE I

DEFINITIONS

For the purpose of this Agreement, the following terms when used herein shall have the following meanings:

- A. ATTACHMENTS are wires, cables, strands, materials or apparatuses affixed to a joint use pole now or hereafter used by either party in the construction, operation or maintenance of its plant.
- B. CHANGE IN CHARACTER OF CIRCUITS shall mean any change in either party's facilities that affects either loading on the pole or clearance between the facilities of the parties hereto.
- C. CODE means the National Electrical Safety Code, as it may be amended from time to time.
- D. DAYS shall mean calendar days.
- E. INJURIES include death, personal injury and property damage or destruction.
- F. JOINT USE is maintaining or specifically reserving space for the attachments of both parties on the same pole at the same time.

- G. JOINT USE POLE is a pole upon which space is provided under this Agreement for the attachments of both parties, whether such space is actually occupied by attachments or reserved therefore upon specific request.
- H. LICENSEE is the party having the right under this Agreement to make attachments to a joint use pole that the other party owns.
- I. OWNER is the party owning the joint use pole.
- J. POLE OR POLES includes the singular and plural.
- K. REARRANGING OF ATTACHMENTS is the moving of attachments from one position to another on a joint use pole.
- L. RESERVED, as applied to space on a pole, means unoccupied space provided and maintained by Owner, either for its own use or expressly for Licensee's exclusive use at Licensee's request.
- M. RIGHT OF WAY is the legal right to use the property of another.
- N. STANDARD JOINT USE POLE means a 40-foot, Class 4 treated pole that meets the requirements of the Code. The parties may agree to use a smaller than Class Four pole, but under no condition shall the standard joint use pole be less than the minimum requirements of the Code.
- O. STANDARD SPACE ALLOCATION means an allocation of sufficient space on a joint use pole for the use of each party taking into consideration requirements of the Code, and is more particularly defined as follows:
 - 1. For JPEC, the use of 10 feet of space on 45-foot poles, 8 feet of space on 40-foot poles, and 6 1/2 feet on 35-foot poles measured downward from the top of the pole
 - 2. For BRTC, the use of 2 feet of space on joint use poles, below the space of JPEC starting at the point that gives adequate Code separation on the pole. If, under the terms of this Agreement, BRTC uses a portion of JPEC's allocated space as measured from the top of the pole, BRTC agrees that its use is permissive and that JPEC shall have the undisputed use of its allocated space. BRTC agrees to move any such attachments within this allocated space at its own cost upon demand of JPEC. Similarly, if JPEC uses a portion of the BRTC 2-foot space, JPEC agrees that such use shall be permissive and agrees to move any such attachment within the 2-foot space upon request.
 - 3. The foregoing definition of a "normal joint use pole" is not intended to preclude the use of joint poles shorter or taller or of different strength than the normal joint use pole in location where it is mutually agreed such poles will meet the requirements of the parties hereto.
- P. TRANSFERRING OF ATTACHMENTS is the removing of attachments from one pole and placing the attachments upon another pole.

ARTICLE II
TERRITORY AND SCOPE OF AGREEMENT

This Agreement shall cover all poles of each of the parties now existing in joint use and those hereafter erected or acquired within the common operating areas served by the parties excepting poles which in the owner's judgment are necessary for its own sole use.

ARTICLE III
PERMISSION FOR JOINT USE

Subject to the terms and conditions of this Agreement, each party hereby permits joint use by the other party of any of its poles in accordance with the standard space allocation defined in Article I and the following:

- A. Allocated pole space may, without additional charge, be used by the party to which it is not allocated for the purpose of installing and maintaining street lighting, traffic signal systems, and vertical attachments (such as but not limited to ground wires, gang operated switch control rods and underground risers) if by the terms of the Code the proposed use is authorized and such use does not unreasonably interfere with the use being made by the party to which such space is allocated (such determination will be made solely by the party to which the space is allocated). If Code provisions cannot subsequently be met then billing for the required modifications will be as set forth in Appendix A.
- B. As long as the provisions of the Code are met, unallocated space may be used without additional charge by either party. If Code provisions cannot subsequently be met then billing for the required modifications will be as set forth in Appendix A.
- C. As long as the provisions of the Code in effect at the time the attachments were installed have been met, any joint use pole now in place shall be deemed satisfactory to both parties and adequate for its requirements whether or not the space allocations made herein have been observed.
- D. As long as the provisions of the Code are met, any pole hereafter made joint use shall thereupon be deemed satisfactory to Licensee and space allocations made herein have been observed.

ARTICLE IV
SPECIFICATIONS

The joint use of poles covered by this Agreement shall at all times be in conformity with all applicable provisions of law and with the minimum requirements of the Code in effect at the time the respective attachments are made, and with such additional requirements as may be mutually approved in writing by the parties.

ARTICLE V
RIGHT-OF-WAY AND LINE CLEARING

- A. The Owner and Licensee will cooperate as far as may be practicable in obtaining right-of-way for both parties. When a written easement is secured it shall be in sufficient detail for identification and recording,

and shall be subject to inspection by the other party upon request. However, no guarantee is given by the Owner of permission from property owners, municipalities or others for the use of poles by the Licensee, and if objection is made thereto and the Licensee is unable to satisfactorily adjust the matter within a reasonable time, the Owner may at any time, upon notice in writing to the Licensee, require the Licensee to remove its attachments from the poles involved, and the Licensee shall, within ninety (90) days after receipt of said notice, remove its attachments from such poles at its sole expense. Should the Licensee fail to remove its attachments as herein provided, the Owner may remove them at the Licensee's expense, without any liability whatever for such removal or the manner of making it, for which expense the Licensee shall reimburse the Owner on demand. The Owner shall provide a 20' right-of-way whenever possible. Nothing stated herein shall preclude the parties from mutually sharing the cost of right-of-way acquisition.

- B. Line clearing and trimming will be performed as follows:
1. When constructing a new joint use pole line the Owner shall cut, clear and trim a 20' right-of-way, if possible.
 2. In all other instances each party shall be responsible for its own initial and recurring trimming, clearing and cutting.

ARTICLE VI

PLACING, TRANSFERRING OR REARRANGING ATTACHMENTS

- A. Either party desiring to reserve space on any pole of the other not then designated as a joint use pole shall make written application therefore, specifying the pole involved, the number and kind of its attachments to be placed thereon and the character of the circuits to be used. Within the (10) days after the receipt of such application, the Owner shall notify the applicant in writing whether or not it is excluding said pole from joint use under the provisions of Article II. Upon receipt of notice from Owner that said pole is not excluded, and after completion of any required transferring or rearranging of attachments on said pole or any pole replacement as provided in Article VII, the applicant shall have the right to use said pole as Licensee in accordance with the terms and conditions of this Agreement. Notwithstanding the foregoing, attachments placed by either party on the other's pole without such application and approval shall subject said pole to the terms of this Agreement. In such case, Owner shall have the right to require Licensee to remove within ninety (90) days at its sole expense any such attachments on poles coming within the exceptions described in Article V. Should Licensee fail to remove such attachments, such failure shall constitute default according to Article XIV.
- B. Except as herein otherwise expressly provided, each party at its own expense shall place, maintain, rearrange, transfer and remove its own attachments, and shall at all times perform such work promptly and in such a manner as not to interfere with work or service being performed by the other party. Upon completion of work by the Owner that will necessitate transfer of the Licensee's attachments, the Owner shall provide written notice to the Licensee that such transfer must be completed within sixty (60) days. If such transfer of

attachments is not completed within sixty (60) days, the old pole shall become the property of the Licensee, and the Licensee shall save harmless the former Owner of such pole from all obligations, liabilities, damages, costs, expenses, or charges incurred thereafter because of or arising out of the presence, location or condition of such pole or any attachment thereon, whether or not it is alleged that the former Owner was negligent or otherwise. Licensee shall pay the former Owner the present in-place value, as set forth in Appendix A, for said pole.

ARTICLE VII

ERECTING, REPLACING OR RELOCATING POLES

- A. Whenever any jointly used pole, or any pole about to be so used under the provisions of this Agreement, is insufficient in size or strength for the existing attachments and for the proposed immediate additional attachments thereon, the Owner shall, within sixty (60) days, replace such pole with a new pole of the necessary size and strength, and make such other changes in the existing pole line in which such pole is included, as may be made necessary by the replacement of such pole and the placing of the Licensee's circuits as proposed. By mutual Agreement, the time period may be shortened or extended.
- B. The parties recognize and agree that there are inherent dangers involved in the transmission and distribution of electricity. The parties agree that unforeseeable emergency conditions will exist from time to time. When due to accidents, storm damage, etc., it is necessary for the Licensee to replace the Owner's pole immediately to restore service to its customers or to eliminate a hazardous condition and the Owner cannot perform the work in time to meet the Licensee's requirements, Licensee may replace the Owner's pole. Licensee will make all of its required facility changes or transfers and will secure the old pole to the new pole so the Owner may make its transfers when feasible. Licensee shall bill the Owner the total cost of the new pole in accordance with Appendix B. Owner shall continue to own the old pole and shall be responsible for its removal, and the new pole will become the property of the original owner.
- C. Whenever it is necessary to change the location of a jointly used pole, by reason of any state, municipal or other governmental requirement, or the requirements of a property owner, the Owner shall, before making such change in location, give notice thereof in writing (except in cases of emergency) to the Licensee, specifying in such notice the time of such proposed relocation, and the Licensee shall within sixty (60) days, transfer its attachment to the pole at the new location.
- D. In any case where the parties hereto shall conclude arrangements for the joint use of any new poles to be erected, the ownership of such poles shall be determined by mutual agreement. The party then owning the lesser number of joint poles under this Agreement should be allowed the opportunity to promptly erect the new joint poles and be the owner thereof or if the party owning the lesser number of poles cannot install the poles in time to meet the service requirements of the party owning the greater number of poles, the party owning the greater number of poles may set the poles and may bill the other party the total cost of setting said

poles in accordance with Appendix A. The party owning the lesser number of poles, if billed, becomes the owner of the new joint use poles.

- E. Whenever either party hereto is about to erect new poles, either as an additional pole line, as an extension of an existing pole line, or as the reconstruction of an existing pole line, it shall notify the other in writing at least thirty (30) days before beginning the work (short notice, including verbal notice subsequently confirmed in writing, may be given in cases of emergency) and shall submit with such notice its plan showing the proposed location and size of the new poles, and circuits it will use thereon. The other party shall, within fifteen (15) days after the receipt of such notice, reply in writing to the party erecting the new poles, stating whether such other party does, or does not, desire space on the said poles, and if it does desire space thereon, the character of the circuits it desires to use and the amount of space it wishes to reserve. This notice of desire to establish joint use shall include detail plans of any changes in the plans of the other party that are desired in order to permit the establishment of joint use. If such other party and number of circuits and attachments are such that the owner does not wish to exclude the poles from poles suitable for the said joint use shall be erected in accordance with the provisions and the payment of costs as provided in this Agreement.
- F. The costs of erecting joint poles coming under this Agreement, either as new pole lines, as extensions of existing pole lines, or to replace existing poles, either existing jointly used poles or poles not previously involved in joint use, shall be borne by the parties as follows:
1. Whenever operating and safety conditions prohibit Owner from replacing an existing pole that needs to be replaced, Licensee shall replace the pole and bill Owner in accordance with Appendix A times 1.25.
 2. A normal joint pole, or a joint pole shorter and/or smaller than the normal pole, shall be erected at the sole expense of the Owner, except as provided in Section G of this Article.
 3. In the case of a pole taller and/or stronger than the normal pole, the extra height and/or strength of which is due wholly to the Owner's requirements, shall be erected at the sole expense of the Owner.
 4. In the case of a new pole taller and/or stronger than the normal pole, the extra height and/or strength of which is due wholly to the Licensee's requirements, the Licensee shall pay to the Owner the extra costs for the additional height and/or strength as set forth in Appendix A.
 5. Where an existing jointly used pole is prematurely replaced by a new one solely for the benefit of the Licensee, the Licensee shall pay the Owner the present in-place value of the existing pole and costs of replacing or transferring all attachments in accordance with Appendix A and Appendix C, and the replaced pole shall be removed and retained by the Owner.
 6. In the case of a new pole taller and/or stronger than the normal pole, the extra height and/or strength of which is due, to the requirements of both parties, the Licensee shall pay to the Owner a sum equal to one-half the excess height and/or strength as set forth in Appendix A, the rest of the cost of erecting such pole to be borne by the Owner.

7. In the case of a new pole taller and/or stronger than the normal pole, where height and/or strength in addition to that needed for the purpose of either or both of the parties hereto is necessary in order to meet the requirements of the code, public authority or of property owners, the excess cost of such pole due to such requirements shall be borne by the Owner.
 8. If Licensee only requires the addition of a pole in an existing line because of span length or terrain, the Owner will furnish and erect said pole at the sole expense of the Licensee, and pole shall remain property of Owner. The charges shall be as set forth in Appendix A.
 9. Where JPEC has a line that crosses an BRTC line and the provisions of the code are met and BRTC desires to set a pole in its line and requests JPEC to attach to said pole, BRTC shall bear all initial and recurring costs of placing and maintaining said pole, except the cost of making and transferring JPEC attachments.
- G. In any case where a pole is erected hereunder to replace another pole solely because such other pole is not tall enough, or of the required strength, to provide adequately for the Licensee's requirements, or where such pole, whether it has space reserved for the Licensee's use or not, had at the time of its erection been pronounced by the Licensee as satisfactory and adequate for its requirements, the Licensee shall, upon erection of the new pole, pay to the Owner, in addition to any amounts payable by the Licensee under paragraphs 3, 4, or 5 of Section F of this Article, a sum equal to the present in-place value as set forth in Appendix A, for the pole which is replaced and the pole removed shall remain the property of the Owner.
- H. In any case where by mutual consent it is desirable to change the ownership of a pole and Licensee erects and owns a joint pole to replace an existing pole of the Owner (instead of the Owner doing so as it is contemplated by Section A of this Article) such Licensee shall pay to the Owner of the replaced pole a sum equal to the present in-place value, as set forth in Appendix A, for the pole which is replaced and the pole removed shall remain the property of the Owner and shall be removed by the Owner.

ARTICLE VIII

MAINTENANCE OF FACILITIES

- A. The Owner shall, at its own expense, maintain its joint use poles in a safe and serviceable condition and shall undertake any appropriate safety measures, including without limitation reasonable pole inspections. The Owner's responsibility for maintaining a safe and serviceable condition of its poles shall be in accordance with the requirements of the Code, and shall replace poles that become defective, in accordance with the provisions of Article VII.
- B. Each party shall, at its own expense, at all times maintain all of its attachments in safe condition, thorough repair, and in accordance with the requirements of the Code.
- C. The parties hereby agree that a cooperative approach will be taken in solving noise or inductance problems that may occur.

ARTICLE IX

ABANDONMENT OF JOINT USE POLES

- A. Anytime Owner desires to abandon any joint use pole, it shall give Licensee at least sixty (60) days written notice. If, at the expiration of such period, Owner shall have no attachments on such pole but Licensee shall not have removed all of its attachments therefrom, such pole shall thereupon become the property of Licensee, Licensee shall save harmless the former Owner from all obligations, liabilities, damages, costs, expenses, or charges incurred thereafter because of or arising out of the presence, location or condition of such pole or any attachment thereon, whether or not it is alleged that the former Owner was negligent or otherwise.
- B. Licensee may at any time abandon a joint use pole by removing therefrom all of its attachments, and giving due notice thereof in writing to Owner.

ARTICLE X

ADJUSTMENT PAYMENTS

- A. The following adjustment payments are applicable for all poles jointly used under this Agreement.
 1. For BRTC owned joint poles 35' and shorter, JPEC shall pay \$17.42 per year each
 2. For JPEC owned joint poles 35' and shorter, BRTC shall pay \$13.79 per year each.
 3. For all poles, 40' and taller, regardless of ownership, the licensee shall pay the owner \$17.75 per year each.
- B. Adjustment payments hereunder shall cover rentals accruing during the calendar year and shall be based on the number of poles on which space is occupied or reserved on the first day of December of the year in which the rentals accrue. Within thirty (30) days following such date, or as soon as practical thereafter, each party shall submit a written statement to the other party giving the number of poles on which space was occupied by or reserved for the party as of such date.
- C. The total adjustment payment due each party shall be determined by multiplying the poles owned and licensed by each party, by the adjustment payment.
 1. The smaller total amount covered above shall be deducted from the larger amount and JPEC or BRTC, which ever shall owe the larger amount, shall pay to the other the difference between said two amounts as the net adjustment payment due for the year involved. Within thirty (30) days after the first day of January next, or as soon as practical thereafter, ensuing after the date of this Agreement, and within thirty (30) days after the first day of each January, or as soon as practical thereafter, during the time this Agreement shall be in effect, the party to which said adjustment payment is owed as of said first day of January, shall submit a written statement (the "Schedule of Pole Rentals") to the other party giving the correct amount owed by the other party.
 2. The adjustment payment herein provided for shall be paid within thirty (30) days after the bill has been submitted, unless said party disputes the amount of such bill within ten (10) days from receipt thereof. In case of such dispute, payment shall be made within thirty (30) days after the bill has been

submitted of the amount that is admitted to be due; an agreement concerning the disputed amount shall be attempted with all reasonable dispatch by negotiation. Failing to reach any such agreement by negotiation, either party may make formal written demand on the other for the amount claimed to be due; and if payment thereof is not made within thirty (30) days, suit may be brought for the amount claimed.

- D. The rates set forth in Paragraph A above shall be effective as of January 1, 2003 and shall remain in effect through December 31, 2003 (the "Base Rate"). The Base Rate shall be escalated, effective January 1, 2004, and annually thereafter, based upon the previous annual Cable Plant Index ("TPI") for poles for the region. If requested, JPEC shall provide BRTC with the documentation referred to in Paragraph C (1) above.

ARTICLE XI

INVENTORY OF ATTACHMENTS

At intervals not exceeding five (5) years, the parties shall conduct a field inventory of all attachments. If there is any difference in the number of attachments found by the inventory and the number arrived at by tabulating those reported, correction will be made by retroactive billing for any attachments identified as being responsible for the difference, and any remaining difference will be spread evenly over the years since the last inventory and billing adjusted accordingly. Each party shall share equally the cost of making such inventory of attachments.

ARTICLE XII

JOINT ANCHORS

The Owner where practicable shall, upon request from Licensee, place anchors suitable for joint use upon consideration of the joint load and guy lead requirements. The cost of the anchor shall be shared, and will be billed, as set forth in Appendix A. Each party shall install its own guy wires.

ARTICLE XIII

GROUNDING AND BONDING

Grounding and bonding will at all times meet the requirements of the Code.

ARTICLE XIV

DEFAULTS

- A. If either party shall fail to discharge any of its obligations under this Agreement and such failure shall continue for thirty (30) days after notice thereof in writing from the other party, all rights of the party in default hereunder, pertaining to making attachments to additional poles of the other, shall be suspended. If such default shall continue for a period of ninety (90) days after such suspension, the other party may forthwith terminate the right of the defaulting party to attach to additional poles of the other party. Any such termination of the right to attach to such additional poles of the other by reason of any such default shall not

abrogate or terminate the right of either party to attach to existing joint use poles or to maintain existing attachments, and all such attachments shall continue thereafter to be maintained pursuant to and in accordance with the terms of this Agreement, which Agreement shall, so long as such attachments are continued, remain in full force and effect solely and only for the purpose of governing and controlling the rights and obligations of the parties with respect to such attachments.

- B. In the event either party should fail to perform its obligations either during the term of this Agreement or after termination made in accordance with the terms of this Article or Article XIX or fail to properly maintain or promptly replace joint use poles thereto after sixty (60) days written notice from the other, the other party shall have the right, but not the obligation, to maintain such poles or to replace the same at the expense of the party so failing, and shall be fully indemnified for all expenses, costs and damages whatever in taking such action or the manner of taking it.

ARTICLE XV

LIABILITY AND DAMAGES

Either party hereto, to the fullest extent permitted by law, agrees to and shall indemnify and hold harmless the other Party from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the joint use of the poles, and or any acts or omissions under this Agreement. The laws of the Commonwealth of Kentucky shall govern any interpretations regarding this Agreement or any activities arising hereunder. Any suit or cause of action brought to enforce the terms of regarding this Agreement which may arise between the parties shall be brought in a court of competent jurisdiction in McCracken Circuit Court of the United States District Court for the Western District of Kentucky.

ARTICLE XVI

RIGHTS OF OTHER PARTIES

- A. If either party has, prior to the execution of this Agreement, conferred upon others not parties to this Agreement (outside parties), by contract or otherwise, rights or privileges to attach to any of its poles covered by this Agreement, nothing herein contained shall be construed as affecting said rights or privileges with respect to existing attachments of such outside parties, which attachments shall continue in accordance with the present practice; all future attachments of such outside parties shall be in accordance with the requirements of Paragraph B below, except where such outside parties have by this Agreement acquired enforceable rights or privileges to make attachments which do not meet such revenue accruing from such outside parties. Any contractual rights or privileges of outside parties recognized in this paragraph shall include renewals of or extensions of the term (period) of such contracts.
- B. If either party hereto desires to confer upon others not parties to this Agreement (outside parties), by contract or otherwise, rights or privileges to attach to any of its poles covered by this Agreement, it shall have the right to do so, provided all such attachments of such outside parties are made in accordance with the following: (a)

such attachments shall not be located within the space allocation of Licensee, unless Licensee concurs in such occupancy. Such concurrence shall in no way waive Licensee's right to occupy its allocated space in the future. Owner shall derive all of the revenue accruing from such outside parties.

ARTICLE XVII

NOTIFICATION PROCEDURES

Wherever in this Agreement notice is required to be given by either party hereto to the other, such notice shall be in writing mailed or delivered to the of JPEC at its office at 2900 Irvin Cobb Dr., Paducah, KY 42001 or BRTC at its office at _____, as the case may be, or to such other addressee as either party may from time to time designate in writing for that purpose.

ARTICLE XVIII

TERM OF AGREEMENT

- A. This Agreement shall continue in full force and effect until the 31st day of December, 2010. This Agreement shall continue from year to year thereafter until terminated by either party, giving to the other six months notice in writing of intention to terminate this Agreement. At any time thereafter, adjustment payment rates applicable under this Agreement shall be subject to joint review and revision upon the written request of either party. In case of revision of the adjustment payment rates as herein provided, the new adjustment payment rates agreed upon shall apply, starting with the annual bill next rendered and continue until again adjusted.
- B. Revisions of the adjustment payments shall be based on experience resulting from previous administration of this Agreement. Any changes shall take into account the original cost factors pertinent to the establishment of the pole facilities involved in all joint use existing under this Agreement at the time of the review. If, within 90 days after the receipt of the request set forth in Article XVIII A above, by either party from the other, the parties hereto fail to agree upon a revision of such rate, then the adjustment payment per pole shall be established at the then existing Base Rate, as escalated by the TPI for a period of two years. The adjustment payment per pole for those systems on the reciprocal rate shall be an amount equal to one-half of the then average annual total cost per pole of the party owning the greater number of poles, based on averaging plant cost factors of providing and maintaining the joint poles covered by this Agreement. For those systems not on the reciprocal rate, the adjustment payment per pole shall be an amount equal to 56 percent (for JPEC) of the then average annual total cost per pole based on the average in-plant poles covered by this Agreement, and the adjustment payment per pole shall be an amount equal to 44 percent (for BRTC) of the then average annual total cost per pole based on the average in-plant cost factors of providing and maintaining the joint poles covered by this Agreement.

ARTICLE XIX

ASSIGNMENT OF RIGHTS

- A. Except as otherwise provided in this Agreement, neither party hereto shall assign or otherwise transfer this Agreement, in whole or in part, without the written consent of the other party; provided that either party shall have the right without such consent to mortgage any or all of its property, rights, privileges and franchises, or to lease or transfer any of them to another corporation organized for the purpose of conducting a business of the same general character as that of such party, or to enter into any merger or consolidation; and, in case of the foreclosure of such mortgage, or in case of such lease, transfer, merger or consolidate its rights and obligations hereunder shall pass to such successors and assigns; and provided, further, that subject to all of the terms and conditions of this Agreement, either party may without such consent permit any corporation conducting a business of the same general character as that of such party, with which it is affiliated by corporate structure, to exercise the rights and privileges of this agreement in the conduct of its said business.
- B. For the purposes of this Agreement, all attachments maintained on any joint use pole by the permission of either party hereto, as provided in Paragraph A above, shall be considered the attachments of the party granting such permission, and the rights, obligations and liabilities of such party under this Agreement, in respect to such attachments, shall be the same as if it were the actual owner thereof.
- C. The attachments of each party hereto or of others permitted by this Agreement shall at all times be and remain its or their property, with the full right of removal, and shall not become subject to any liens against the other party.

ARTICLE XX

WAIVER OF TERMS OF CONDITIONS

The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment or any such terms or conditions, but the same shall be and remain at all times in full force and effect.

ARTICLE XXI

EXISTING AGREEMENTS

Any existing agreement between the parties hereto for the joint use of wood poles upon a rental basis within the territory covered by this Agreement is, by mutual consent, hereby abrogated and annulled.

ARTICLE XXII

NO EFFECT ON FRANCHISE RIGHTS

Notwithstanding anything elsewhere herein provided, nothing contained in this Agreement shall abrogate, limit or affect any obligation of either party under any franchise granted to either party by any municipal corporations or it predecessors.

ARTICLE XXIII
SOURCE OF PAYMENTS

The obligations of JPEC hereunder shall be payable solely from the funds of Jackson Purchase Energy Corporation.

ARTICLE XXIV
SUPPLEMENTAL ROUTINES AND PRACTICES

Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they mutually agree to be necessary or desirable to effectively administer the provisions of this Agreement. Any such supplemental operating routines or working practice must be authorized and approved by the management level officer or employee executing or authorized to execute this contract.

ARTICLE XXV
NO JOINT OWNERSHIP

The Licensee of a joint use pole shall acquire no ownership of or interest in such a pole, the Licensee's rights therein being limited to the right to compliance with the terms and conditions contained in this Agreement.

ARTICLE XXVI
AGREEMENT AFFECTS ONLY PARTIES HERETO

Except only insofar as the express terms of this Agreement make the rights hereunder available to the successors or assigns of the parties hereto, the provisions of this Agreement shall not be interpreted to confer any right of action at law or in equity upon any parties except the parties hereto.

IN WITNESS WHEREOF, the parties here to have caused these presents to be executed in duplicate, and their corporate seals to be affixed thereto by the respective officers thereunto duly authorized, on the day and year first above written.

JACKSON PURCHASE ENERGY CORPORATION

By: _____

Title: President & CEO

Witness: _____

BALLARD RURAL TELEPHONE COOPERATIVE, INC.

By: _____

Title: _____

Witness: _____

APPENDICES A, B & C

These Appendices, effective as of consisting of four pages, will be used to determine the cost responsibility and amounts to be billed for modifications in accordance with this joint use agreement. Notification forms required to

carry out the provisions of this Agreement will be furnished as needed. Annually after the execution of this Agreement, all Appendices shall be escalated in accordance with Article X, Subparagraph E set forth above.

Approved

Jackson Purchase Energy Corporation

By: _____

Title: President & CEO

Date: _____

BRTC COMMUNICATIONS, INC.

By: _____

Title: _____

Date: _____

TVPPA

Appendix A (continued)

Effective 1/1/2002

Additional payments to be made by either the Telephone or Power Company

Payment for one half cost of anchor and rod shall be as follows

3/4" ROD = \$47.00 Double Eye, 8" Single Helix Anchor

1" or larger ROD - \$66.00 Triple Eye, 8" Double Helix Anchor or Larger

Payment under Article VII, Section F, Paragraph 8, shall be the current cost in plant plus an attachment cost of \$25.00 for each cable, conductor, or neutral wire.

If Licensee is not present at any time that Owner removes an old pole and installs a new pole, and the Owner is required to make a second trip to the site, Licensee hereby agrees to pay \$30.00 to Owner.

TVPPA

Based on 2001 TPI (0.805%)
 Developed 12/10/2001

APPENDIX B

Effective 1/1/2002

The current cost of treated poles for emergency conditions as discussed in Article VII, paragraph B is as follows:

Height of Poles	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 9
25'	443	421	402	386	373	356	343	321
30'	569	537	504	477	451	424	399	368
35'	623	582	547	513	487	460	424	400
40'	722	695	656	617	560	507		
45'	864	806	737	692	651			
50'	921	863	828	757	702			
55'	1140	1050	990	906				
60'	1541	1450	1312	1213				
65'	1719	1597	1454					
70'	2090	1838						

TVPPA

Based on 2001 TPI (0.805%)
Developed 12/10/2001

APPENDIX A
PRESENT IN-PLACE VALUES OF POLES

Effective 1/1/2002

Pole Height and Class	Age of Pole in Years										
	New	1-3	4-6	7-9	10-12	13-15	16-18	19-21	22-24	25-27	28-30
	In-Place Values of Poles (Dollars)										
25'-9	215	187	159	131	102	79	56	31	23	14	6
-7	229	198	170	140	110	84	60	35	25	16	6
-6	238	207	176	145	114	88	62	35	26	17	6
-5	245	213	181	149	118	91	64	36	27	17	8
-4	257	224	189	157	124	95	67	38	27	18	8
-3	268	233	198	163	130	98	70	41	29	18	8
-2	281	244	209	171	135	104	73	43	30	19	8
-1	295	257	219	180	143	109	76	45	32	21	9
30'-9	245	214	181	149	117	91	64	38	26	17	8
-7	266	232	196	162	128	98	70	40	29	18	8
-6	283	245	209	172	136	104	74	43	31	19	8
-5	298	259	220	181	144	110	78	45	32	21	9
-4	314	272	232	191	150	105	82	48	34	22	9
-3	329	288	244	202	158	123	86	51	36	23	10
35'-7	283	245	209	172	136	104	74	43	31	19	8
-6	306	266	227	187	146	113	79	47	34	21	9
-5	325	284	241	198	157	121	84	49	35	22	9
-4	342	298	253	210	165	127	89	52	38	23	10
-3	358	312	264	219	172	133	93	54	40	25	10
-2	375	325	276	228	179	139	97	57	41	26	12
40'-6	337	294	249	206	162	126	88	51	36	23	10
-5	375	325	276	228	179	139	97	57	41	26	12
-4	411	356	305	250	197	152	106	62	45	29	12
-3	437	381	324	267	210	162	113	66	49	30	13
-2	464	403	342	284	223	171	122	70	52	32	14
-1	490	426	363	299	236	181	128	74	54	34	14
45'-6	407	354	302	248	194	150	105	61	45	29	12
-5	433	377	320	264	209	161	113	65	48	30	13
-4	461	402	341	283	222	172	121	70	52	32	14
-3	491	428	364	301	236	181	128	74	54	34	14
-2	524	455	388	319	251	193	136	79	58	36	16
-1	557	485	412	340	267	207	145	83	62	40	17
50'-5	468	407	346	286	224	172	122	70	52	32	14
-4	504	438	373	308	242	187	132	75	56	35	14
-3	552	481	408	337	264	205	144	83	61	38	17
-2	575	500	423	351	276	214	150	87	64	40	17
-1	614	534	455	375	295	227	159	92	67	44	18
55'-5	565	491	417	345	271	210	148	84	62	40	17
-4	604	525	447	368	290	223	157	91	66	43	18
-3	660	574	489	403	316	244	171	98	73	47	19
-2	700	609	542	426	336	258	181	105	76	49	21
-1	762	662	564	465	365	283	198	115	84	53	22
60'-4	809	704	597	494	389	299	211	121	89	57	23
-3	875	762	647	534	420	324	228	132	96	61	26
-2	967	842	715	590	464	358	251	145	106	67	29
-1	1028	894	761	627	492	381	267	154	113	73	30
65'-3	969	844	718	591	465	327	251	145	106	69	29
-2	1064	927	788	649	511	358	276	159	117	75	35
-1	1144	995	848	699	550	424	298	171	127	80	34
70'-2	1225	1065	906	747	587	454	319	184	135	86	36
-1	1393	1212	1032	850	669	515	363	210	153	97	43

TVPPA

Based on 2001 TPI (0.805%)
 Developed 12/10/2001

APPENDIX C

Effective 1/1/2002

Payments to the Power Distributor by the Telephone Company

A. 1ø Primary	0 - 60 ø Angle	53
	Dead End	79
B. 3ø Primary	0 - 60 ø Angle	197
	Dead End	316
C. Guy		71
D. 1ø Transformer & Connections		
	25 KVA and Less	132
Greater than	25 KVA - up to 100 Kva	290
E. Service Conductor		
	Each Wire	12
	Multiplex	13
F. 3ø Disconnect Switches		263
G. 3ø Group Operated Switch		1318
H. Security Light & Arm		82
I. Street Light & Arm		165
J. Items not Listed		Actual Cost
K. Move Pole		385

Payment to the Telephone Company by the Power Company

A. Move Pole	385
B. Move Guy	65
C. Transfer Drop	12
D. Transfer Multiple Drop	25
E. Transfer Wire Terminal	12
F. Transfer Cable Attachment	48
G. Transfer Cable Dip	73
H. Transfer Pole Mounted Apparatus or Load Coil Case	84
I. Transfer Cross Box or Dryer	109
J. Transfer Terminal less than 100 Pair	12
K. Move or Attach Cable	25
L. Relocate Cable	121
M. Transfer Guy	45
N. Items not Listed	Actual Cost